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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,979

09/17/2003

Daniel M. Marks

110293.133US1

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61302 7590 07/08/2009
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EXAMINER

SHAH, MILAP

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/663,979

Examiner

MILAP SHAH

Applicant(s)

MARKS ET AL.

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 23 March 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

Continuation of 5 Other: It appears the Inventors are prosecuting the instant application as "pro se" inventors, which requires that each response or reply is to be signed by all named inventors. The amendment of March 23, 2009 is not signed by all inventors. During a telephone discussion with Mr. Daniel Marks, Mr. Marks indicated a power of attorney appointing the assignee to prosecute the Application was filed, however, the power of attorney was not accepted by the Office and a response indicating such was mailed on November 2, 2006 (see application file). Consequently, according to CFR 1.33, currently all responses from starting with the response submitted on November 22, 2006 up to the most recent response submitted on March 23, 2009 appear non-compliant as not all inventors of the pro se application signed the responses.

As indicated in the telephone call, Applicant was suggested to file a new power of attorney, correctly indicating that the assignee of record will prosecute the Applicant and further submit a statement on the record signed by all inventors indicating that the inventors agree with the prosecution history of the instant application to overcome this issue.

See MPEP 714.01(a), CFR 1.32, and CFR 1.33 for additional detail and information regarding the rules and policies with respect to power of attorney and prosecution of applications by inventors or assignees.

Applicant is invited to telephone Examiner with any questions.

/MBS/